

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Richard Lowery, on behalf of himself
and others similarly situated,

Plaintiff,

v.

Texas A&M University System, et al.,
Defendants.

CIVIL ACTION NO.
4:22-cv-03091

JUDGE CHARLES ESKRIDGE

PLAINTIFF'S FOURTH ADDITIONAL NOTICE TO THE COURT

Interim president Mark A. Welsh III continues to double down on Texas A&M university's discriminatory faculty hiring and shows that he has no intention of changing these practices in response to SB 17. On August 15, 2023, the interim president sat down for a virtual all-faculty-and-staff meeting, which has been since uploaded to YouTube, and made the following remarks:

We have to redouble our efforts to attract faculty of color. We need to redouble our efforts to attract students of color. And there's nothing in any state legislation that keeps us from doing that. We just have to get serious about the job. And so we plan to do that.

<https://youtu.be/DhZR5JD2Aw8?t=243> (last visited on August 18, 2023). These remarks show that the university intends to go beyond the discriminatory preferences that it was already conferring on female and minority faculty candidates, and they make clear that the university does not believe that SB 17 prevents it from doing so.

The interim president also said:

I also believe that diversity is a strength. I believe inclusion of all people, all ideas, all voices in an imperative for success in large organizations. And I believe equity is just a way we ought to live our lives. And so I think we can do all things that we need to be doing here, and not be scared of repercussions from anywhere outside Texas A&M University, because they make common sense, and common sense should be the first standard we apply here.

<https://youtu.be/DhZR5JD2Aw8?t=570> (last visited on August 18, 2023). This not only endorses the pursuit of “diversity” and “equity,” presumably at the expense of meritocracy, but also declares that the university has no fear of repercussions from outside the university—including from the state legislature or the state and federal courts—if it continues these pursuits.

Finally, the interim president described himself as the university’s “chief diversity officer,” an astounding claim to make when diversity officers at public universities have been explicitly abolished by SB 17. He said:

I think the university president is kind of the chief everything. You’re the chief diversity officer, you’re the chief strategist, you’re the chief spokesperson, I believe.

<https://youtu.be/DhZR5JD2Aw8?t=653> (last visited on August 18, 2023).

The pleadings said it well: “The use of race and sex preferences—as well as outright set-asides—is pervasive throughout the university’s faculty hiring, and the problem extends far beyond the ACES Plus program and the other discrete episodes mentioned in this complaint.” First Am. Compl., ECF No. 19, at ¶ 30. The behavior and public statements of university officials since SB 17’s enactment have only corroborated the truth of this allegation. The university and its officials are determined to continue their discriminatory preferences for female and non-Asian minorities when hiring faculty, and idea that SB 17 will usher in a new regime of colorblind and sex-neutral appointments at Texas A&M becomes more fanciful by the day.

CONCLUSION

The motion to dismiss for lack of justiciability should be denied.

Respectfully submitted.

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Dated: August 18, 2023

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CERTIFICATE OF SERVICE

I certify that on August 18, 2023, I served this document through CM/ECF upon:

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